

(d) *Audits.* (1) Applicants and licensees claiming eligibility for closed bidding under this section or for other provisions under §§ 24.711 through 24.720 shall be subject to audits by the Commission, using in-house and contract resources. Selection for audit may be random, on information, or on the basis of other factors.

(2) Consent to such audits is part of the certification included in the short-form application (Form 175). Such consent shall include consent to the audit of the applicant's or licensee's books, documents and other material (including accounting procedures and practices) regardless of form or type, sufficient to confirm that such applicant's or licensee's representations are, and remain, accurate. Such consent shall include inspection at all reasonable times of the facilities, or parts thereof, engaged in providing and transacting business, or keeping records regarding licensed broadband PCS service and shall also include consent to the interview of principals, employees, customers and suppliers of the applicant or licensee.

(e) *Tiers.* (1) For purposes of determining spectrum to which the eligibility requirements of this section are applicable, the BTA service areas (see § 24.202(b)) are divided into two tiers according to their population as follows:

(i) Tier 1: BTA service areas with population equal to or greater than 2.5 million;

(ii) Tier 2: BTA service areas with population less than 2.5 million.

(2) For Auction No. 35, the population of individual BTA service areas will be based on the 1990 census. For auctions beginning after the start of Auction No. 35, the population of individual BTA service areas will be based on the most recent available decennial census.

(f) *Application of eligibility requirements.* (1) The following categories of licenses will be subject to closed bidding pursuant to the eligibility requirements of this section in auctions that begin after the effective date of this paragraph.

(i) For Tier 1 BTAs, one of the 10 MHz C block licenses (1895–1900 MHz paired with 1975–1980 MHz);

(ii) For Tier 2 BTAs, two of the 10 MHz C block licenses (1895–1900 MHz

paired with 1975–1980 MHz; 1900–1905 MHz paired with 1980–1985 MHz) and all 15 MHz C block licenses.

(2) Notwithstanding the provisions of paragraph (f)(1) of this section, any C block license for operation on spectrum that has been offered, but not won by a bidder, in closed bidding in any auction beginning on or after March 23, 1999, will not be subject in a subsequent auction to closed bidding pursuant to the eligibility requirements of this section.

(g) *Definitions.* The terms *affiliate, business owned by members of minority groups and/or women, and gross revenues* used in this section are defined in § 1.2110 of this chapter. The terms *consortium of small businesses, control group, existing investor, institutional investor, nonattributable equity, preexisting entity, publicly traded corporation with widely dispersed voting power, qualifying investor, small business, and total assets* used in this section are defined in § 24.720 of this chapter.

[59 FR 63232, Dec. 7, 1994; 60 FR 5335, Jan. 27, 1995, as amended at 60 FR 37795, July 21, 1995; 61 FR 33868, July 1, 1996; 63 FR 17122, Apr. 8, 1998; 63 FR 50799, Sept. 23, 1998; 65 FR 53637, Sept. 5, 2000; 65 FR 68931, Nov. 15, 2000]

#### § 24.710 [Reserved]

#### § 24.711 Upfront payments, down payments and installment payments for licenses for frequency Block C.

(a) *Upfront Payments and Down Payments.* (1) Each eligible bidder for licenses subject to auction on frequency Block C shall pay an upfront payment as set forth in a Public Notice pursuant to the procedures in § 1.2106 of this chapter.

(2) Each winning bidder shall make a down payment and pay the balance of its winning bids pursuant to § 1.2107 and § 1.2109 of this chapter.

(b) *Installment payments.* Each eligible licensee of frequency Block C or F may pay the remaining 90 percent of the net auction price for the license in installment payments pursuant to § 1.2110(g) of this chapter and under the following terms:

(1) For an eligible licensee with *gross revenues* exceeding \$75 million (calculated in accordance with § 24.709(a)(2) and (b)) in each of the two preceding years (calculated in accordance with

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§ 24.720(f)), interest shall be imposed based on the rate for ten-year U.S. Treasury obligations applicable on the date the license is granted, plus 3.5 percent; payments shall include both principal and interest amortized over the term of the license.

(2) For an eligible licensee with *gross revenues* not exceeding \$75 million (calculated in accordance with § 24.709(a)(2) and (b)) in each of the two preceding years, interest shall be imposed based on the rate for ten-year U.S. Treasury obligations applicable on the date the license is granted, plus 2.5 percent; payments shall include interest only for the first year and payments of interest and principal amortized over the remaining nine years of the license term.

(3) For an eligible licensee that qualifies as a Small business or as a consortium of small businesses, interest shall be imposed based on the rate for ten-year U.S. Treasury obligations applicable on the date the license is granted, plus 2.5 percent; payments shall include interest only for the first two years and payments of interest and principal amortized over the remaining eight years of the license term.

(4) For an eligible licensee that qualifies as a business owned by members of minority groups and/or women, interest shall be imposed based on the rate for ten-year U.S. Treasury obligations applicable on the date the license is granted; payments shall include interest only for the first three years and payments of interest and principal amortized over the remaining seven years of the license term.

(5) For an eligible licensee that qualifies as a small business owned by members of minority groups and/or women or as a consortium of small business owned by members of minority groups and/or women, interest shall be imposed based on the rate for ten-year U.S. Treasury obligations applicable on the date the license is granted; payments shall include interest only for the first six years and payments of interest and principal amortized over the remaining four years of the license term.

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(c) *Unjust enrichment.* See § 1.2111 of this chapter.

[59 FR 63235, Dec. 7, 1994; 60 FR 5335, Jan. 27, 1995, as amended at 60 FR 37796, July 21, 1995; 63 FR 2349, Jan. 15, 1998; 63 FR 50799, Sept. 23, 1998]

### § 24.712 Bidding credits for licenses for frequency Block C.

(a) Except with respect to licenses won in closed bidding in auctions that begin after March 23, 1999, a winning bidder that qualifies as a small business or a consortium of small businesses as defined in § 24.720(b)(1) or § 24.720(b)(4) may use a bidding credit of fifteen percent, as specified in § 1.2110(e)(2)(iii) of this chapter, to lower the cost of its winning bid.

(b) Except with respect to licenses won in closed bidding in auctions that begin after March 23, 1999, a winning bidder that qualifies as a very small business or a consortium of very small businesses as defined in § 24.720(b)(2) or § 24.720(b)(5) may use a bidding credit of twenty-five percent as specified in § 1.2110(e)(2)(ii) of this chapter, to lower the cost of its winning bid.

(c) *Unjust enrichment.* See § 1.2111 of this chapter. The unjust enrichment provisions of § 1.2111(d) and (e)(2) shall not apply with respect to licenses acquired in either the auction for frequency block C that began on December 18, 1995, or the reauction of block C spectrum that began on July 3, 1996.

[65 FR 53637, Sept. 5, 2000]

### § 24.713 [Reserved]

### § 24.714 Partitioned licenses and disaggregated spectrum.

(a) *Eligibility.* (1) Parties seeking approval for partitioning and disaggregation shall request an authorization for partial assignment of a license pursuant to § 24.839.

(2) Broadband PCS licensees in spectrum blocks A, B, D, and E and broadband PCS C and F block licenses not subject to the eligibility requirements of § 24.709 may apply to partition their licensed geographic service area or disaggregate their licensed spectrum at any time following the grant of their licenses.

(3) Broadband PCS licensees that acquired C or F block licenses in closed